UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,031	01/29/2004	Richard Cressman	2003P06304 US01	4818

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EXAMINER
PADMANABHAN, KAVITA

ART UNIT	PAPER NUMBER
2161	

DATE MAILED: 11/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>06 July 2004</u>.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-20</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-20</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>29 January 2004</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>1/29/04</u>.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

DETAILED ACTION

Status of Claims

1.   Claims 1-20 are pending.

2.   Claims 1-20 are rejected.

Information Disclosure Statement

3.   The following document listed on the information disclosure statement filed 1/29/04 has

not been considered because the Patent No. listed does not correspond to the Name of Patentee

or Applicant of Cited Document or the Date of Publication of Cited Document listed:

20020037999

Applicant is advised that the date of any re-submission of any item of information

contained in this information disclosure statement or the submission of any missing element(s)

will be the date of submission for purposes of determining compliance with the requirements

based on the time of filing the statement, including all certification requirements for statements

under 37 CFR 1.97(e). See MPEP § 609.05(a).

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
> subject matter which the applicant regards as his invention.

5.   **Claims 1-20** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for

failing to particularly point out and distinctly claim the subject matter which applicant regards as

the invention.

Claim 1 recites "said plurality of physical storage datasets, comprising said first physical storage dataset, each of said plurality of physical storage datasets, comprising an end storage address, each of said plurality of physical storage datasets, having predetermined storage capacities." It is unclear what the applicant is intending to claim. It is assumed for the purposes of examination that the applicant was intending to claim -- said plurality of physical storage datasets comprising said first physical storage dataset, each of said plurality of physical storage datasets comprising an end storage address, and each of said plurality of physical storage datasets having predetermined storage capacities.--

Claim 6 recites "a plurality of physical storage datasets individually having a predetermined storage capacity." It is unclear what the applicant is intending to claim. It is assumed for the purposes of examination that the applicant was intending to claim --a plurality of physical storage datasets, each of said plurality of physical storage datasets having a predetermined storage capacity--. **Claims 12 and 18** contain similar limitations and are similarly rejected, as are the claims depending therefrom.

The examiner will apply prior art to these claims as best understood, giving the claim language its broadest reasonable interpretation, in light of the above rejections.

Claim Rejections - 35 USC § 101

6.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7.   **Claims 1-2 and 4-5** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In the instant case, **claims 1-2 and 4-5** recite a method, however the method claimed

does not produce a useful, concrete and tangible result.

For example, **claim 1** concludes with designating a logical dataset. However such a

designation does not appear to constitute a useful, concrete, and tangible result. **Claims 2 and 4-**

5 are similarly nonstatutory. Claim 3 appears to overcome the deficiencies of the claim from

which it depends.

The examiner will apply prior art to these claims as best understood, with the assumption

that applicant will amend to overcome the stated 101 rejections.

Claim Rejections - 35 USC § 102

8.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9.   **Claims 1-9, 11-15, 17-18, and 20** are rejected under 35 U.S.C. 102(b) as being

anticipated by **Brewer et al.** (US 5,613,082, hereinafter "Brewer").

In regards to **claim 6, Brewer** teaches a method for processing data for storage and

retrieval, comprising the steps of:

– designating a logical dataset encompassing a plurality of physical storage datasets

individually having a predetermined storage capacity **(Brewer; col. 3, lines 12-16; col. 5,**

lines 56-59; col. 5, line 67 – col. 6, line 2; col. 7, lines 51-55; col. 8, lines 58-62);

- maintaining an identifier identifying an end storage address of a first physical storage

   dataset of said logical dataset **(Brewer; col. 3, lines 12-16; col. 8, lines 58-62)**;

- sequentially storing data in said logical dataset **(Brewer; col. 8, lines 22-36; col. 12, lines**

   47-50);

- monitoring said sequential storage of data in said logical dataset to determine an

   occurrence of data storage at a location identified by said end storage address of said first

   physical storage dataset **(Brewer; col. 12, lines 2-11)**; and

- continuing said sequential storage of data in a second physical storage dataset of said

   logical dataset starting at an address subsequent to said end storage address **(Brewer; col.**

   12, lines 2-11 and 47-50).

In regards to **claim 7**, **Brewer** teaches the method according to claim 6, wherein said step

of monitoring said sequential storage of data in said logical dataset includes the step of

maintaining an identifier of storage capacity used in response to storage of data in said logical

dataset **(Brewer; Fig. 4)**.

In regards to **claim 8**, **Brewer** teaches the method according to claim 7, wherein said

determination of said occurrence of data storage at said location identified by said end storage

address of said first physical storage dataset is performed using said identifier of storage capacity

used and said predetermined storage capacity of said first physical storage dataset **(Brewer; col.**

8, lines 46-57; col. 10, line 63 – col. 11, line 10).

In regards to **claim 9**, **Brewer** teaches the method according to claim 6, wherein said end

storage address of said first physical storage dataset of said logical dataset comprises a relative

address **(Brewer; Fig. 4; col. 7, lines 41-60; col. 8, lines 58-62)**.

In regards to **claim 11**, **Brewer** teaches the method according to claim 6, wherein said

identifier identifying an end storage address comprises a pointer supporting identifying address

locations of particular records in said logical dataset **(Brewer; Fig. 4; col. 7, lines 41-60; col. 8,**

lines 58-62).

Claims **1-5** are rejected using the same rationale given for claim 6.

Claims **12-15 and 17** are rejected using the same rationale given for claims 6-9 and 11,

respectively.

Claims **18 and 20** are rejected using the same rationale given for claims 6 and 9,

respectively.

Claim Rejections - 35 USC § 103

10.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

11.   **Claims 10, 16, and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over

Brewer in view of **Plow** (US 4,408,273).

In regards to **claim 10**, **Brewer** teaches the method according to claim 6.

Brewer does not expressly teach at least one physical storage dataset comprising an IBM virtual storage access method entry sequenced dataset (VSAM ESDS).

Plow teaches using VSAM ESDS for data set storage **(Plow; col. 5, lines 11-29)**.

It would therefore have been obvious to one of ordinary skill in the art at the time of the applicant's invention to implement the method of Brewer using at least one VSAM ESDS, as taught by Plow, to access the stored data **(Plow; col. 2, line 56 – col. 3, line 4)**.

Claims 16 and 19 are each rejected using the same rationale given for claim 10.

Conclusion

12.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Kavita Padmanabhan** whose telephone number is **571-272-8352**. The examiner can normally be reached on Monday-Friday, 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
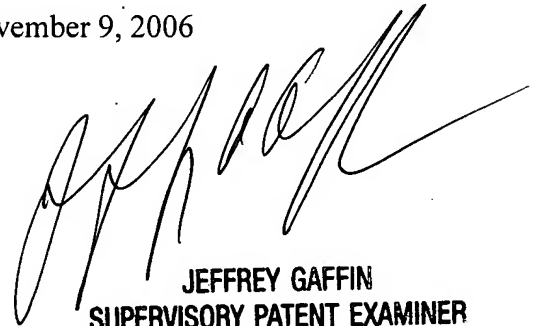
Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kavita Padmanabhan   November 9, 2006
Assistant Examiner
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